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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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8

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☒ This application has been examined ☒ Responsive to communication filed on 12-11-95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire three month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-38 are pending in the application.  
Of the above, claims 14-18, 21, and 22 are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-13, 19, 20, and 23-38 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 2-93)

SN 08/377798

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The Examiner again requests that the first paragraph of the specification be amended to indicate that parent case 08/253,663 is now abandoned.

Claims 1-13, 19, 20, and 23-38 are again rejected, and claim 39 is newly rejected, as set forth in the Office action of 03-05-96, under 35 U.S.C. § 103 as being unpatentable over KOGAN *et al.* (A), RAO *et al.* (B), or SEEKAMP *et al.* (K), in view of ROSS (AF). As to newly added claim 39, inhibition of the interaction of E-selectin with its ligand would reasonably have been expected to be a property of the inventive agent, because of the known similarities between molecules which bind E-selectin and those which bind P-selectin. If the property of inhibition of E-selectin binding were not inherent in every agent of independent claim 1, it would have been obvious to select such agents for the purpose of enhanced effectiveness, because it was

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known in the art that both E- and P-selectin are involved with cardiovascular disease and inflammation.

Applicant's arguments filed 09-05-96 have been fully considered but they are not persuasive.

Applicant argues that none of KOGAN, RAO, and SEEKAMP teaches inhibition of atherosclerosis. This is not convincing because it represents piecemeal consideration of the references and does not address the rejection as formulated. The Examiner has admitted on the record that none of the three primary references included an explicit teaching of Applicant's invention.

Applicant argues that RAO is not relevant because it deals with inflammation. This is not convincing because those of ordinary skill in the art recognize atherosclerosis can be considered to arise as an inflammatory response.

Applicant's statement that the Examiner did not cite the sections of ROSS relevant to the rejection is incorrect. Specific sections of pages 805 and 807 are cited in the paragraph bridging pages 7 and 8 of the Office action of 03-05-96.

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Applicant argues that based on the references relied on, it is at most "obvious to try" Applicant's invention. The Examiner does not agree. There is a body of art (see, for example, the references of record) which suggests using agents which inhibit the interaction between P-selectin and its ligands for treatment of a variety of cardiovascular and inflammatory disorders. Thus, one of ordinary skill in the art at the time of the invention would have had a reasonable expectation of success with regard to treatment of atherosclerosis.

Claims 1-12, 19, 20, 26-38 are again rejected, and claim 39 is newly rejected, as set forth in the Office action of 03-05-96, under 35 U.S.C. § 103 as being unpatentable over ROHRER *et al.*

(L) in view of DE-AMBROSI (C), if necessary further in view of ROSS (AF). See the above rejection over KOGAN, RAO, or SEEKAMP in view of ROSS, for further rationale regarding new claim 39.

Applicant's arguments filed 09-05-96 have been fully considered but they are not persuasive.

Applicant again presents a piecemeal argument, stating that neither ROHRER nor DE-AMBROSI teaches inhibition of

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atherosclerosis. This is not convincing as set forth above with regard to the rejection over KOGAN, RAO, or SEEKAMP in view of ROSS.

With regard to ROSS, Applicant again states that the Examiner has failed to provide citations. The Examiner has already responded to this point.

Applicant again maintains that the Examiner has incorrectly employed an "obvious to try" standard. The Examiner does not agree, for the same reasons as set forth above with regard to the rejection over KOGAN, RAO, or SEEKAMP in view of ROSS.

Applicant argues that the ligands of claim 7 are patentably distinct, but provides no evidence to support the allegation. Thus the Examiner maintains the position that the identity of the ligand which is to be blocked from binding to the selectin is not sufficient to distinguish the claim from the prior art as applied.

Applicant argues that the source of the agent in claim 25 does provide for patentable distinctness. This is not convincing because there is no evidence of record to support Applicant's

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allegation. The Examiner maintains that the agent would be the same regardless of its source.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

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Papers relating to this application may be submitted to Group 1200 by facsimile transmission. The number of the fax machine for official papers in Group 1200 is (703) 308-4556. The cover sheet of any document submitted by facsimile transmission should be clearly marked as either an official or an informal communication.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kathleen Kahler Fonda, at telephone number (703) 308-1620. Examiner Fonda can generally be reached from Monday through Thursday, as well as on alternate Fridays, between 7:30 a.m. and 5:00 p.m. If the Examiner cannot be reached, questions may be addressed to Supervisory Patent Examiner John Kight, at (703) 308-0204. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1200 receptionist whose telephone number is (703) 308-1235.

*KCF*  
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